



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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August 3, 2020

Panattoni Development, Inc.
ATTN: Brendan Mason
1821 Dock Street, Suite 100
Tacoma, WA 98402

RE: Water Quality Certification Order No. **18214** for Corps Public Notice
No. **NWS-2019-697** Vancouver Logistics Project, Clark County, Washington

Dear Brendan Mason:

On August 23, 2019, Panattoni Development Company, Inc. submitted a request for a Section 401 Water Quality Certification under the federal Clean Water Act for the Vancouver Logistics Project, Clark County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Lori Kingsbury at (360) 407-6926 or via e-mail at Lori.kingsbury@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J Lund".

for

Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

cc: James Carsner, Corps of Engineers
Dan Berlin, Anchor QEA, LLC
Loree' Randall, Ecology, HQ SEA
Rebecca Rothwell, Ecology, SWRO SEA
Miranda Adams, Ecology, SWRO SEA
ECY RE FEDPERMITS

IN THE MATTER OF GRANTING A)	Order No. 18214
WATER QUALITY)	Corps Reference No. NWS-2019-697
CERTIFICATION TO)	Vancouver Logistics Project, wetlands, located in
Panattoni Development Company,)	Vancouver, Clark County, Washington.
LLC)	
in accordance with 33 U.S.C. 1341)	
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	

Panattoni Development Company, LLC
 Attn: Brendan Mason
 1821 Dock Street, Suite 100
 Tacoma, WA 98402

On August 23, 2019, the Department of Ecology (Ecology) received a request from Panattoni Development Company, LLC for a Section 401 Water Quality Certification (WQC) for the Vancouver Logistics Project. The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on December 4, 2019.

The proposed project entails the construction of a commercial shipping and receiving facility. The development would include a commercial warehouse, vehicle and truck parking, widening of existing access roads, construction of a stormwater pond, landscaping, and road widening along NE 88th Street.

The project will result in 0.597 acre of direct and 1.303 acres of indirect impacts to existing Category III and IV wetlands. To compensate for these impacts, the Applicant will purchase 0.919 credits from the Terrace Wetland Mitigation Bank.

The project site is currently a vacant lot located at 9013 NE 72nd Avenue, Vancouver, Clark County, Washington 98662, Northwest Quarter Section 5, Township 2 North, Range 2 East; WRIA No. 28, Salmon-Washougal Watershed.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and,

3. Conformance with the provision of using all known, available, and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize Panattoni Development Company, LLC to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term “Applicant” shall mean Panattoni Development Company, LLC and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent via e-mail to Lori Kingsbury, Federal Permit Manager, at Lori.kingsbury@ecy.wa.gov with a copy to fednotification@ecy.wa.gov. The submittals shall be identified with Order No. 18214 and include the Applicant name, project name, project location, project contact, and the contact phone number.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on August 23, 2019.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.
6. This Order is not effective until the Corps issues a permit for this project.

7. The Applicant shall send (per A.2) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
8. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
9. The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this Order are being met.
10. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
12. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. **These statements shall be provided to Ecology before construction begins.**
13. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
14. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.
15. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2;
 - b. A copy of this Order is provided to the new owner or operator; and
 - c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

16. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

B. Water Quality Conditions:

This Order does not authorize exceedances of water quality standards established in WAC 173-201A.

C. Timing Requirements:

This Order will expire when all its conditions have been met and the Applicant has submitted to Ecology verification that the Applicant has purchased the required bank credits for this project.

D. Notification Requirements:

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov with a copy to Lori.kingsbury@ecy.wa.gov. Notifications shall be identified with Order No. **18214** and include the Applicant name, project name, project location, project contact, and the contact phone number.
 - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any of this Order's conditions. In addition to the phone or e-mail notification, the Applicant shall submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
 - b. At least ten (10) days prior to the start of construction.
 - c. Within ten (10) days after project completion.
2. If project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit a written construction status report per Condition A.2. The status reports shall be submitted every 12 months thereafter until project construction is complete.

E. Construction

General Conditions

1. The Applicant shall obtain and comply with the conditions of the Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
2. Construction stormwater, sediment, and erosion-control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, grading, and fill work, and shall be inspected and maintained throughout construction.

3. All clearing limits, travel corridors, stockpile locations, and staging areas shall be clearly marked prior to commencing construction activities and maintained until all project construction is complete. Equipment shall enter and operate only within the marked clearing limits, travel corridors, and stockpile areas.
4. Wash water containing oils, grease, or other hazardous material resulting from wash down of equipment or work areas shall be contained for proper disposal and shall not be discharged into waters of the state or storm drains.
5. Staging areas shall be located a minimum of 50 feet and, where practical, 200 feet from waters of the state, including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation (with additional BMPs) and obtain approval from Ecology's Federal Permit Manager before placing the staging area within the 50-foot setback area.
6. All equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.
7. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
8. The Applicant shall ensure that fill material (soil and gravel) placed for the proposed project does not contain toxic material in toxic amounts.
9. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
10. No equipment shall enter, operate, be stored or parked within any wetlands, buffers, or other waters of the state except as specifically provided for in this Order.
11. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.

F. Wetland Compensatory Mitigation Conditions

1. The Applicant shall mitigate wetland impacts as described in the Vancouver Logistics Project Mitigation Plan (hereafter called the "mitigation plan") prepared by Anchor QEA, LLC, dated July 2020 or as revised and approved by Ecology.
2. Prior to impacting wetlands, the Applicant shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.919 wetland mitigation bank credits (credits) from the Terrace Wetland Mitigation Bank. This documentation must include the Order number, Order issuance date, impact acreage, the amount of credits required by the Order, and date of credit purchase.

3. The Applicant shall notify Ecology of any changes to the amount of wetland impacts or revisions to the mitigation plan.
4. The Applicant shall complete the purchase of credits before the impacts to wetlands occur or Ecology may require additional compensation to account for temporal loss of wetland functions.
5. If the credits are not purchased within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:
 - a. The Vancouver Logistics Project
 - b. When bank credits will be purchased

With the:

- c. Reason for the delay
- d. Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until the Vancouver Logistics Project is complete and the required credits are purchased.

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
3. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
4. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
5. Work causing distressed or dying fish, discharges of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges occur, the Applicant shall notify the Ecology Federal Permit Manager per condition B.1. and immediately take the following actions:
 - a. Cease operations at the location of the non-compliance.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over

- normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
- d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
 - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
6. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

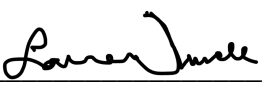
Please direct all questions about this Order to:

Lori Kingsbury
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775
lori.kingsbury@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

SIGNATURE

 for

Perry J Lund, Section Manager
Department of Ecology
Shorelands and Environmental Assistance Program
Southwest Regional Office

August 3, 2020

Date

Attachment A
Statement of Understanding
Water Quality Certification Conditions

Vancouver Logistics Project
Panattoni Development Company, Inc.
Water Quality Certification Order No. **18214**
and
Corps Reference No. **NWS-2019-697**

I, _____, state that I will be involved as an agent or contractor for Panattoni Development Company, Inc. in the site preparation and/or construction of the Vancouver Logistics Project located at 9013 NE 72nd Avenue, Vancouver, Clark County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. **18214** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company